



Docket No.: 239269US0

COMMISSIONER FOR PATENTS  
ALEXANDRIA, VIRGINIA 22313



ATTORNEYS AT LAW

RE: Application Serial No.: 10/601,671  
Applicants: Atsushi FUNAKI, et al.  
Filing Date: June 24, 2003  
For: FLUOROCOPOLYMER  
Group Art Unit: 1713  
Examiner: CHOI, LING SIU

SIR:

Attached hereto for filing are the following papers:

**Letter  
Office Action w/English Translation Issued In  
Corresponding Chinese Patent Application No. 03147126.9**

Our check in the amount of \$0.00 is attached covering any required fees. In the event any variance exists between the amount enclosed and the Patent Office charges for filing the above-noted documents, including any fees required under 37 C.F.R. 1.136 for any necessary Extension of Time to make the filing of the attached documents timely, please charge or credit the difference to our Deposit Account No. 15-0030. Further, if these papers are not considered timely filed, then a petition is hereby made under 37 C.F.R. 1.136 for the necessary extension of time. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.

Norman F. Oblon

  
Roland E. Martin

Registration No. 48,082

Customer Number

**22850**

(703) 413-3000 (phone)

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DOCKET NO: 239269US0



IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF :  
ATSUSHI FUNAKI, ET AL. : EXAMINER: CHOI, LING SIU  
SERIAL NO: 10/601,671 : GROUP ART UNIT: 1713  
FILED: JUNE 24, 2003 : ALLOWED: MARCH 15, 2005  
FOR: FLUOROCOPOLYMER :

LETTER TO PTO

COMMISSIONER FOR PATENTS  
ALEXANDRIA, VIRGINIA 22313

SIR:

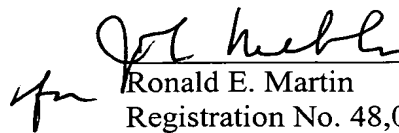
Applicants wish to make of record the enclosed Office Action issued in the corresponding Chinese Application. Applicants note that the Office Action is accompanied by an English translation. Additionally, the reference GB 1072615A is of record and was previously cited in the Office Action dated July 15, 2004.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.

Customer Number  
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THE PATENT OFFICE OF THE STATE INTELLECTUAL PROPERTY OFFICE  
OF THE PEOPLE'S REPUBLIC OF CHINA

Address: No. 6 Xi Tucheng Lu, Jimeng Qiao Haidian District, Beijing Post code: 100088 P.O. BOX: Beijing 8020

Shanghai Patent & Trademark Law Office

Date of Dispatch  
November 25, 2005

Application No.: 03147126.9	Applicant: ASAHI GLASS COMPANY, LIMITED
Application Date: June 27, 2003	Agent:
Title: FLUOROCOPOLYMER	

NOTICE ON OFFICE ACTION

- ☒ According to the Request for Substantive Examination raised by the applicant and based on the provision of Item 1, Article 35 of the Patent Law, the Examiner has proceeded with the Examination as to Substance on the above mentioned application for patent for invention.  
☐ According to Item 2, Article 35 of the Chinese Patent Law, the Patent Office has decided to examine the above application for patent for invention.
- ☒ The applicant has requested that the filling date of  
2002.06.27 at the JP Patent Office as the priority date,  
2002.08.20 at the JP Patent Office as the priority date,  
2003.01.21 at the JP Patent Office as the priority date,  
\_\_\_\_\_ at the \_\_\_\_\_ Patent Office as the priority date,  
☐ The applicant has already submitted the copy of the first filed prior application document certified by the receiving office of the country where the application was originally filed.  
☐ The applicant has not submitted the copy of the first filed prior application document certified by the receiving office of the country where the application was originally filed. It is deemed not having claimed priority according to the provision stipulated in Article 30 of the Patent Law.  
☐ This application is a PCT application.
- ☐ The applicant submitted on \_\_\_\_\_ and \_\_\_\_\_ the amendment documents.  
On examination, among them,  
the \_\_\_\_\_ submitted on \_\_\_\_\_ can not be accepted.  
the \_\_\_\_\_ submitted on \_\_\_\_\_ can not be accepted.  
Because the above amendment  
☐ does not conform with the provisions of Article 33 of the Chinese Patent Law,  
☐ does not conform with the provisions of Rule 51 of the Implementing Regulations of the Chinese Patent Law,  
Refer to the text of the Notice for the specific reasons why the amendment cannot be accepted

4. ☐ The examination has been proceeded on the original application documents.  
☒ The examination is directed at the following application documents:  
 Claim \_\_\_\_\_, page 1-11 of the specification, page \_\_\_\_\_ of the drawing of the original application documents submitted on the date of filing.  
 Claim 1-11, page \_\_\_\_\_ of the specification, page \_\_\_\_\_ of the drawing submitted on 2005.01.07.  
 Claim \_\_\_\_\_, page \_\_\_\_\_ of the specification, page \_\_\_\_\_ of the drawing submitted on \_\_\_\_\_.  
 Claim \_\_\_\_\_, page \_\_\_\_\_ of the specification, page \_\_\_\_\_ of the drawing submitted on \_\_\_\_\_.  
 Abstract of the specification submitted on 2003.06.27, the drawing of the Abstract submitted on \_\_\_\_\_.
5. ☐ This Notice is made under the condition of no search having been conducted.  
☒ This Notice is made under the condition of search having been conducted.  
☒ This Notice has cited the below comparison documents (the number of which shall continue to be used in the subsequent examination procedures):

No.	Title of Document	Date of Publication (or the filing date of the conflicting Application)
1	GB1072615A	1967.06.21
2		
3		
4		

6. The conclusive opinion drawn from the examination:
- ☐ **As regards the Specification:**
- ☐ The contents of the application fall under the scope stipulated by Article 5 of the Patent Law for which no patent right shall be granted.
- ☐ The specification does not conform with the provision of Item 3, Article 26 of the Patent Law.
- ☐ The drafting of the specification does not conform with the provision of Rule 18 of the Implementing Regulations.
- ☒ **As regards the Claims:**
- ☒ Claim 1,2,6-11 does not possess the novelty as stipulated in Item 2, Article 22 of the Patent Law.
- ☐ Claim \_\_\_\_\_ does not possess the inventiveness as stipulated in Item 3, Article 22 of the Patent Law.
- ☐ Claim \_\_\_\_\_ does not possess the practical applicability as stipulated in Item 4, Article 22 of the Patent Law.
- ☐ Claim \_\_\_\_\_ falls under the scope of Article 25 of the Patent Law where no patent right is to be granted.
- ☐ Claim \_\_\_\_\_ does not conform with the provision of Item 4, Article 26 of the Patent Law.
- ☒ Claim 3,5 does not conform with the provision of Item 1, Article 31 of the Patent Law.
- ☐ Claim \_\_\_\_\_ does not conform with the definition of invention as stipulated in Item 1, Article 2 of the Implementing Regulations of the Patent Law.
- ☐ Claim \_\_\_\_\_ does not conform with the provision of Item 1, Rule 13 of the Implementing Regulations of the Patent Law.
- ☐ Claim \_\_\_\_\_ does not conform with the provisions of Rules 20 to 23 of the Implementing Regulations of the Patent Law.

Refer to the text of this Notice for the specific analyses of the conclusive opinion.

7. Based on the above conclusive opinion, the Examiner deems that:
- ☐ The applicant shall amend the application documents in accordance with the requirements raised in the text of the Notice.
  - ☒ The applicant shall discuss in his observations reasons why this application for patent can be granted a patent right, and amend the portions indicated in the text of the Notice which have been deemed as not conforming with the provisions, or no patent right shall be granted.
  - ☒ There are no substantive contents in the application for patent that can be granted a patent right. If the applicant does not present reasons or the reasons presented are not sufficient, the application shall be rejected.
8. The applicant is asked to note the following items:
- (1) According to the provision of Article 37 of the Patent Law, the applicant shall submit his observations within **four months** from the receipt of this Notice. Where, without justified reasons, the applicant does not respond at the expiration of said date, the application shall be deemed to have been withdrawn
  - (2) The applicant shall amend his application according to Article 33 of the Patent Law. The amended documents shall be in duplicate, and the form, in conformity with the relevant provisions in the Examination Guide.
  - (3) The applicant and/or his agent can not, without first making an appointment, go to the Patent Office to have an interview with the Examiner.
  - (4) The observations and/or the amended documents shall be mailed or delivered to Department of Receipt, the Patent Office of the State Intellectual Property Office. No documents shall possess legal effects if not mailed or delivered to Department of Receipt.
9. The text portion of this Notice totals 2 page(s), and includes the following attachment(s):
- ☐ duplicate copy(ies) of cited comparison document(s), altogether \_\_\_\_\_ copy(ies) \_\_\_\_\_ pages.
  - ☐

Examination Department: \_\_\_\_\_ Examiner(Seal): \_\_\_\_\_

2201 2001.7

P171#

## The First Office Action

Application No. 031471269

The present invention relates to a fluorocopolymer and an article comprising a substrate and a layer of the fluorocopolymer formed on the surface of the substrate. After examination, the examiner gives specific remarks as follows.

1. The technical solution which claim 1 seeks to protect has no novelty under Item 2, Article 22 of the Chinese Patent Law. D1 (GB1072615A) has disclosed a thermoplastic organic polymer, which is a polymer of a monomer mixture of monoethylenically unsaturated fluorocarbon monomer and at least one of other monoethylenically unsaturated hydrocarbon monomer. The fluorocarbon monomer is preferably tetrafluoroethylene (TFE), which is present in an amount of at least 20% by weight. The examples of fluorocarbon monomer also include vinylidene fluoride(VF<sub>2</sub>), hexafluoropropene(HFP), chlorotrifluoroethylene(CTFE), and dichlorodifluoroethylene(DCDFE). Preferred fluorocarbon mixtures are TFE/VF<sub>2</sub>, TFE/CTFE/VF<sub>2</sub>, TFE/HFP/VF<sub>2</sub> containing at least 50% TFE by weight. The examples of monoethylenically unsaturated hydrocarbon include ethylene(E), propylene (Pr), butylene (B), isobutylene (IB), and so on. The thermoplastic polymer may further comprise the unit of "acidic monomer", which is preferably an  $\alpha, \beta$ -unsaturated acid or lower alkyl ester thereof. The representative examples thereof are acrylic acid(AA), methacrylic acid(MAA), itaconic acid and so on. The amount of acidic monomer is less than 7%, preferably less than 4%. The preferred lower limit is about 0.1%. At the same time, the Example gives a specific formulation, i.e. TFE/IB/VF<sub>2</sub>/AA (52/32/16/0.8) (See P2, L6 to P3, L13 of D1).

Thereby, claim 1 differs from D1 in the volume flow rate of the fluorocopolymer. However, in case of the same polymer, the volume flow rate as a parameter feature of the polymer is inevitably identical. Thus, the feature of volume flow rate is the content that can be deduced from D1 exclusively and directly. Therefore, the claimed technical solution of claim 1 is actually identical to that disclosed in D1. Consequently, claim 1 lacks novelty.

2. Dependent claims 2 and 6-11 have further defined claim 1. However, D1 has disclosed additional technical features in characteristic portions of these claims. Therefore, if claim 1 cited by these claims has no novelty, neither do claims 2 and

6-11.

3. In case that claim 1 lacks novelty, independent claims 3 and 5 have no identical or corresponding specific technical features to independent claim 1. Thus, they have no unity under Item 1, Article 31 of the Chinese Patent Law.

For the reasons described above, said application cannot be granted a patent right according to the present application texts. The applicant should make a response within the specified time limit in this Action, and answer each question brought forward one by one. If necessary, the applicant should amend the application documents to overcome the deficiencies. Otherwise, it will be difficult to be approved. The amendments on the application documents shall meet Article 33 of the Chinese Patent Law, and should not go beyond the disclosures as filed.

When submitting the amended texts, the applicant should submit both the marked-up version and clean version of amendment on the application documents. The applicant should ensure consistency of contents of the both.

## Comments and Suggestions

Having reviewed the First Office Action and the relevant comparison document carefully, we have the following comments and suggestions.

### 1. With regard to remark 1

We think it unreasonable, as component (b) of fluorocopolymer of the present invention differs from component (b) of the thermoplastic organic polymer of D1 in the fluorinated monomer.

In addition, the applicant shall provide strong and convincing arguments to prove the inventive step of claim 1. The applicant may emphasize and/or add distinguishing technical features into Claim 1 based on the recodation of application documents. Further, it is much helpful for the applicant to discuss the difference between the claimed technical solution of claim 1 and that of D1. For example, the applicant may indicate the difference of component (b) between D1 and claim 1 of the present invention. Furthermore, it is very helpful for the applicant to explain and emphasize the different function of the acidic monomer (i.e. component (c)) in the present invention from D1 according to our experience.

Moreover, the applicant shall state good effects, particularly surprising effects of the present invention, especially those brought about by the distinguishing features. It would be greatly appreciated if the applicant could provide experimental data and/or supplement experimental data showing the surprising effects, if any.

Usually, the arguments may focus on the following aspects:

(i) It is non-obvious for the skilled person in the art to obtain the claimed technical solution of the claim over the prior art, i.e. D1, common knowledge in the art and the combination thereof (the prominent substantive features);

(ii) The claimed technical solution of the claim has unexpected or surprising technical effects;

(iii) The present invention may be regarded as a combination invention, or an essential element-omitted invention or a selection invention over the prior art;

(iv) The present invention overcomes a technical prejudice in the art;

(V) The present invention solves a technical problem, which has been retaining unsolved in the art for a long time;

(vi) The invention achieves a successful commercially.



(vii) It is difficult to complete the present invention (technical difficulty).

The above suggestions are merely for your reference. We mainly rely on the applicants/inventors to solve the problem of novelty and inventiveness because they are the experts in the art.

Please note that when demonstrating the inventiveness of a claim, the purpose of the invention, the technical solution and the effect(s) thereof shall be taken into consideration simultaneously.

2: With regard to remark 2

If independent claim 1 has novelty and inventiveness, so have relevant dependent claims 2 and 6-11.

3. With regard to remark 3

According to the provisions of Article 31 of the Chinese Patent Law, if two or more independent claims belong to a single general invention concept, link with each other technically, or have identical or corresponding specific technical features, they have unity. "Special technical features" shall mean those technical features that define a contribution which each of those inventions, considered as a whole, makes over the prior art.

If independent claim 1 has novelty and inventiveness, independent claims 3 and 5 would have identical or corresponding specific technical features to independent claim 1 and they have unity with independent claim 1 thereby.

Please note that, when the applicant amends the application documents, the amendments should not go beyond the disclosures as originally filed according to Article 33 of the Chinese Patent Law.

If the applicant adds technical feature(s) into the claims, please indicate the support for the added feature(s) in the specification.

We enclose herewith the relevant Articles and Rules for your reference.

Further, if there are any granted family patents, e.g., US patents, EP patents, please forward us with a copy of the claims, which may be helpful for the acceleration of examination.

Your clear and detailed instructions reaching us **before March 25, 2006** would

be greatly appreciated. If the response can not be made before the above due date, an extension of time for two months can be requested, for which an official fee of RMB 600 (about US\$ 72) and attorney fee of US\$ 80 shall be incurred. No further extension is available.

## ATTACHMENT

**PLEASE NOTE: THE UNDERLINED PORTIONS ARE MENTIONED BY THE EXAMINER IN THE ACTION.**

### **Article 22 of the Chinese Patent Law**

Any invention or utility model for which patent right may be granted must possess novelty, inventiveness and practical applicability.

Novelty means that, before the date of filing, no identical invention or utility model has been publicly disclosed in publications in the country or abroad or has been publicly used or made known to the public by any other means in the country, nor has any other person filed previously with the Patent Administration Department Under the State Council an application which described the identical invention or utility mode1 and was published after the said date of filing.

Inventiveness means that, as compared with the technology existing before the date of filing, the invention has prominent substantive features and represents a notable progress and that the utility model has substantive features and represents progress.

Practical applicability means that the invention or utility model can be made or used and can produce effective results.

### **Article 31 of the Chinese Patent law**

An application for a patent for invention or utility model shall be limited to one invention or utility model. Two or more inventions or utility models belonging to a single general inventive concept may be filed as one application.

### **Article 33 of the Chinese Patent law**

An applicant may amend his or its application for a patent, but the amendment to the application for a patent for invention or utility model may not go beyond the scope of the disclosure contained in the initial description and claims, and the amendment to the application for a patent for design may not go beyond the scope of the disclosure as shown in the initial drawings or photographs.



# 中华人民共和国国家知识产权局

邮政编码: 200233 上海桂平路 435 号 上海专利商标事务所有限公司 周承泽	发文日期
申请号: 031471269	
申请人: 旭硝子株式会社	
发明创造名称: 氟共聚物	

## 第一次审查意见通知书

- ☒ 应申请人提出的实审请求, 根据专利法第 35 条第 1 款的规定, 国家知识产权局对上述发明专利申请进行实质审查。  
☐ 根据专利法第 35 条第 2 款的规定, 国家知识产权局决定自行对上述发明专利申请进行审查。
- ☒ 申请人要求以其在:  
JP 专利局的申请日 2002 年 06 月 27 日为优先权日,  
JP 专利局的申请日 2002 年 08 月 20 日为优先权日,  
JP 专利局的申请日 2003 年 01 月 21 日为优先权日,  
专利局的申请日 年 月 日为优先权日,  
专利局的申请日 年 月 日为优先权日。  
☒ 申请人已经提交了经原申请国受理机关证明的第一次提出的在先申请文件的副本。  
☐ 申请人尚未提交经原申请国受理机关证明的第一次提出的在先申请文件的副本, 根据专利法第 30 条的规定视为未提出优先权要求。
- ☐ 经审查, 申请人于:  
年 月 日提交的 不符合实施细则第 51 条的规定;  
年 月 日提交的 不符合专利法第 33 条的规定;  
年 月 日提交的
- 审查针对的申请文件:  
☐ 原始申请文件。 ☒ 审查是针对下述申请文件的  
申请日提交的原始申请文件的权利要求第 项、说明书第 1-11 页、附图第 页;  
2005 年 1 月 7 日提交的权利要求第 1-11 项、说明书第 页、附图第 页;  
年 月 日提交的权利要求第 项、说明书第 页、附图第 页;  
年 月 日提交的权利要求第 项、说明书第 页、附图第 页;  
2003 年 6 月 27 日提交的说明书摘要, 年 月 日提交的摘要附图。
- ☐ 本通知书是在未进行检索的情况下作出的。  
☒ 本通知书是在进行了检索的情况下作出的。  
☒ 本通知书引用下述对比文献(其编号在今后的审查过程中继续沿用):  
编号 文件号或名称 公开日期 (或抵触申请的申请日)  
对比文件 1 GB1072615A 1967-06-21
- 审查的结论性意见:  
☐ 关于说明书:  
☐ 申请的内容属于专利法第 5 条规定的不授予专利权的范围。



- ☐说明书不符合专利法第 26 条第 3 款的规定。  
☐说明书不符合专利法第 33 条的规定。  
☐说明书的撰写不符合实施细则第 18 条的规定。  
☐

☒关于权利要求书:

- ☒权利要求 1, 2, 6-11 不具备专利法第 22 条第 2 款规定的新颖性。  
☐权利要求 不具备专利法第 22 条第 3 款规定的创造性。  
☐权利要求 不具备专利法第 22 条第 4 款规定的实用性。  
☐权利要求 属于专利法第 25 条规定的不授予专利权的范围。  
☐权利要求 不符合专利法第 26 条第 4 款的规定。  
☒权利要求 3, 5 不符合专利法第 31 条第 1 款的规定。  
☐权利要求 不符合专利法第 33 条的规定。  
☐权利要求 不符合专利法实施细则第 2 条第 1 款关于发明的定义。  
☐权利要求 不符合专利法实施细则第 13 条第 1 款的规定。  
☐权利要求 不符合专利法实施细则第 20 条的规定。  
☐权利要求 不符合专利法实施细则第 21 条的规定。  
☐权利要求 不符合专利法实施细则第 22 条的规定。  
☐权利要求 不符合专利法实施细则第 23 条的规定。  
☐

上述结论性意见的具体分析见本通知书的正文部分。

7. 基于上述结论性意见, 审查员认为:

- ☐申请人应按照通知书正文部分提出的要求, 对申请文件进行修改。  
☒申请人应在意见陈述书中论述其专利申请可以被授予专利权的理由, 并对通知书正文部分中指出的不符合规定之处进行修改, 否则将不能授予专利权。  
☒专利申请中没有可以被授予专利权的实质性内容, 如果申请人没有陈述理由或者陈述理由不充分, 其申请将被驳回。  
☐

8. 申请人应注意下述事项:

- (1) 根据专利法第 37 条的规定, 申请人应在收到本通知书之日起的肆个月内陈述意见, 如果申请人无正当理由逾期不答复, 其申请将被视为撤回。  
(2) 申请人对其申请的修改应符合专利法第 33 条的规定, 修改文本应一式两份, 其格式应符合审查指南的有关规定。  
(3) 申请人的意见陈述书和/或修改文本应邮寄或递交国家知识产权局专利局受理处, 凡未邮寄或递交给受理处的文件不具备法律效力。  
(4) 未经预约, 申请人和/或代理人不得前来国家知识产权局专利局与审查员举行会晤。

9. 本通知书正文部分共有 2 页, 并附有下列附件:

- ☐引用的对比文件的复印件共 份 页。 ☐



审查员: 谢志赞 (8519)

2005 年 11 月 8 日

审查部门 化学发明审查部



# 中华人民共和国国家知识产权局

邮政编码: 200233 上海桂平路 435 号 上海专利商标事务所有限公司 周承泽	发文日期
申请号: 031471269	
申请人: 旭硝子株式会社	
发明创造名称: 氟共聚物	

## 第一次审查意见通知书

- ☒ 应申请人提出的实审请求, 根据专利法第 35 条第 1 款的规定, 国家知识产权局对上述发明专利申请进行实质审查。  
☐ 根据专利法第 35 条第 2 款的规定, 国家知识产权局决定自行对上述发明专利申请进行审查。
- ☒ 申请人要求以其在:  
JP 专利局的申请日 2002 年 06 月 27 日为优先权日,  
JP 专利局的申请日 2002 年 08 月 20 日为优先权日,  
JP 专利局的申请日 2003 年 01 月 21 日为优先权日,  
专利局的申请日 年 月 日为优先权日,  
专利局的申请日 年 月 日为优先权日。  
☒ 申请人已经提交了经原申请国受理机关证明的第一次提出的在先申请文件的副本。  
☐ 申请人尚未提交经原申请国受理机关证明的第一次提出的在先申请文件的副本, 根据专利法第 30 条的规定视为未提出优先权要求。
- ☐ 经审查, 申请人于:  
年 月 日提交的 不符合实施细则第 51 条的规定;  
年 月 日提交的 不符合专利法第 33 条的规定;  
年 月 日提交的
- 审查针对的申请文件:  
☐ 原始申请文件。 ☒ 审查是针对下述申请文件的  
申请日提交的原始申请文件的权利要求第 项、说明书第 1-11 页、附图第 页;  
2005 年 1 月 7 日提交的权利要求第 1-11 项、说明书第 页、附图第 页;  
年 月 日提交的权利要求第 项、说明书第 页、附图第 页;  
年 月 日提交的权利要求第 项、说明书第 页、附图第 页;  
2003 年 6 月 27 日提交的说明书摘要, 年 月 日提交的摘要附图。
- ☐ 本通知书是在未进行检索的情况下作出的。  
☒ 本通知书是在进行了检索的情况下作出的。  
☒ 本通知书引用下述对比文献(其编号在今后的审查过程中继续沿用):  
编号 文件号或名称 公开日期(或抵触申请的申请日)  
对比文件 1 GB1072615A 1967-06-21
- 审查的结论性意见:  
☐ 关于说明书:  
☐ 申请的内容属于专利法第 5 条规定的不授予专利权的范围。



- ☐说明书不符合专利法第 26 条第 3 款的规定。  
☐说明书不符合专利法第 33 条的规定。  
☐说明书的撰写不符合实施细则第 18 条的规定。  
☐

☒关于权利要求书:

- ☒权利要求 1, 2, 6-11 不具备专利法第 22 条第 2 款规定的新颖性。  
☐权利要求 不具备专利法第 22 条第 3 款规定的创造性。  
☐权利要求 不具备专利法第 22 条第 4 款规定的实用性。  
☐权利要求 属于专利法第 25 条规定的不授予专利权的范围。  
☐权利要求 不符合专利法第 26 条第 4 款的规定。  
☒权利要求 3, 5 不符合专利法第 31 条第 1 款的规定。  
☐权利要求 不符合专利法第 33 条的规定。  
☐权利要求 不符合专利法实施细则第 2 条第 1 款关于发明的定义。  
☐权利要求 不符合专利法实施细则第 13 条第 1 款的规定。  
☐权利要求 不符合专利法实施细则第 20 条的规定。  
☐权利要求 不符合专利法实施细则第 21 条的规定。  
☐权利要求 不符合专利法实施细则第 22 条的规定。  
☐权利要求 不符合专利法实施细则第 23 条的规定。  
☐

上述结论性意见的具体分析见本通知书的正文部分。

7. 基于上述结论性意见, 审查员认为:

- ☐申请人应按照通知书正文部分提出的要求, 对申请文件进行修改。  
☒申请人应在意见陈述书中论述其专利申请可以被授予专利权的理由, 并对通知书正文部分中指出的不符合规定之处进行修改, 否则将不能授予专利权。  
☒专利申请中没有可以被授予专利权的实质性内容, 如果申请人没有陈述理由或者陈述理由不充分, 其申请将被驳回。

☐

8. 申请人应注意下述事项:

- (1) 根据专利法第 37 条的规定, 申请人应在收到本通知书之日起的肆个月内陈述意见, 如果申请人无正当理由逾期不答复, 其申请将被视为撤回。  
(2) 申请人对其申请的修改应符合专利法第 33 条的规定, 修改文本应一式两份, 其格式应符合审查指南的有关规定。  
(3) 申请人的意见陈述书和/或修改文本应邮寄或递交国家知识产权局专利局受理处, 凡未邮寄或递交给受理处的文件不具备法律效力。  
(4) 未经预约, 申请人和/或代理人不得前来国家知识产权局专利局与审查员举行会晤。

9. 本通知书正文部分共有 2 页, 并附有下列附件:

- ☐引用的对比文件的复印件共 份 页。 ☐



审查员: 谢志 (8519)

2005 年 11 月 8 日

审查部门 化学发明审查部

## 第一次审查意见通知书正文

申请号: 031471269

审查员: 谢志赞

电话: 010-

62085700

本申请涉及一种氟共聚物以及由基材和基材表面上形成的氟共聚物层的制品。经审查, 具体意见如下:

1. 权利要求1所要求保护的技术方案不具备专利法第二十二条第二款规定的新颖性。对比文件1 (GB1072615A) 公开了一种热塑性有机聚合物, 该聚合物是单烯属不饱和氟碳单体和至少一种其它单烯属不饱和烃混合物的聚合物, 氟碳单体优选是四氟乙烯 (TFE), 至少以20重量%存在, 氟碳单体的例子还包括偏二氟乙烯 (VF<sub>2</sub>)、六氟丙烯 (HFP)、三氟氯乙烯 (CTFE) 和二氯二氟乙烯 (DCDFE), 优选的氟碳混合物是含有至少50重量%TFE的TFE/VF<sub>2</sub>, TFE/CTFE/VF<sub>2</sub>, TFE/HFP/VF<sub>2</sub>; 单烯属不饱和烃的例子包括乙烯 (E)、丙烯 (Pr)、丁烯 (B)、异丁烯 (IB) 等; 该热塑性聚合物还可以含有“酸性单体”单元, 优选是  $\alpha$ ,  $\beta$ -不饱和酸或其低烷基酯, 代表性的有丙烯酸 (AA)、甲基丙烯酸 (MAA)、衣康酸等, 酸性单体含量少于7%, 优选少于4%, 优选下限是0.1%; 同时实施例给出了一个具体配方TFE/IB/VF<sub>2</sub>/AA (52/32/16/0.8) (参见对比文件1的说明书第2页第6行至第3页第13行)。

可见权利要求1和对比文件1所公开内容的区别就在于权利要求1还公开了氟共聚物的体积流量, 但是在聚合物相同的情况下, 作为其参数特征的体积流量也必然相同, 因而技术特征体积流量是可以从对比文件1中直接导出的惟一内容, 由此可知权利要求1要求保护的技术方案与对比文件1公开的技术方案, 实质上是相同的, 同此权利要求1不具备新颖性。

2. 从属权利要求2、6-11对权利要求1作了进一步的限定, 其限定部分的附加技术特征同样已被对比文件1公开, 因此当其引用的权利要求1不具备新颖性时, 从属权利要求2、6-11所要求保护的技术方案也不具备专利法第二十二条第二款所规定的新颖性。

3. 在权利要求1不具备新颖性的情况下, 独立权利要求3和独立权利要求5与独立权利要求1没有相同或相应的特定技术特征相关联, 不具备单一性, 不符合专利法第三



十一条第一款的规定。

申请人应当在本通知书指定的答复期限内对本通知书提出的问题逐一进行答复。  
申请人对申请文件的修改应当符合专利法第33条的规定，即不得超出原说明书和权利要求书记载的范围。